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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/737,276

12/16/2003

Antje Wenzel

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EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/737,276	<b>Applicant(s)</b> WENZEL ET AL.	
	<b>Examiner</b> Stuart Hendrickson	<b>Art Unit</b> 1793	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

Art Unit: 1793

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The RCE is accepted.

Claims 32-43 are rejected under 103(a) as obvious over Ou et al. '842 in view of 3325340.

Ou '842 teaches in the examples (esp ex. 1) treating vermiculite ore with lithium citrate in water for 24 hours, washing and drying. Ou only differs in not exemplifying the claimed process; the examples in toto teach all the pieces. The ore is deemed to meet the claimed size- note the use of 70 mesh (.210 mm) and Walker col. 3 lines 20-35; using the ore of Walker in the process of Ou is an obvious expedient to provide the required vermiculite. The amount of material (claims 35, 36) is suggested in col. 3. Thus, no difference is seen in the product. The recitation of intended use does not limit the product, and no differences are seen due to the similarity of the process steps. Process limitations (claims 38-43) do not distinguish the product. Ou col. 5 suggests drying the materials upon final use.

Applicant's arguments filed 12/17/07 have been fully considered but they are not persuasive. The claims and Ou put vermiculite and citrate in water and wash. No difference is seen in the effect gained. Claim 39 appears to encompass a highly exfoliated material, as is argued that Ou's shearing would create. No differences are seen in the product; a partially delaminated material appears possessed by the claims. Perhaps a minimum size of the final product should be claimed, and a difference shown. Ou does not shear in ex. 1. Note the misspellings ('time' in claim 39) and the periods in claim 32. The implied properties of claim 32 line 2 should be clearly claimed, and shown to be novel. If the particles of Ou cannot make a certain composition, then perhaps a composition should be claimed after the assertion has been demonstrated.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson  
examiner Art Unit 1793